

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 07-CR-20531-1

v.

Honorable Thomas L. Ludington

STANLEY THOMAS BRAZIL, JR.,

Defendant.

**ORDER DENYING DEFENDANT’S MOTION FOR COUNSEL, DENYING
PLAINTIFF’S MOTION TO DISMISS AND DIRECTING PLAINTIFF TO RESPOND**

On September 23, 2008, a federal jury convicted Defendant Stanley Thomas Brazil, Jr. of two counts of distribution and aiding and abetting in the distribution of cocaine base. ECF Nos. 173, 230. He was sentenced to concurrent sentences of 380 months incarceration for each count. ECF No. 230. On August 11, 2017, he was resentenced to concurrent sentences of 292 months incarceration for each count. ECF No. 426. His sentence was further reduced on January 31, 2020, to a term of 262 months incarceration and eight years of supervised release. ECF No. 463. On September 14, 2020, Defendant filed a motion for appointment of counsel and a motion for compassionate release. ECF Nos. 477, 478. On October 9, 2020, Plaintiff, the United States of America (the “Government”), moved to dismiss Defendant’s motion for compassionate release. ECF No. 479. For the reasons stated below, Defendant’s motion for appointment of counsel will be denied, Plaintiff’s motion to dismiss will be denied, and Plaintiff will be directed to respond to Defendant’s motion for compassionate release.

I.

A.

The Sixth Amendment secures to a defendant who faces incarceration the right to counsel at all “critical stages” of the criminal process. *United States v. Wade*, 388 U.S. 218, 224 (1967). The Supreme Court has held that prisoners’ post-conviction right to counsel extends only to the first appeal of right and no further. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). The decision to appoint counsel is within the discretion of the court, and the appointment of counsel is only required where the interests of justice or due process so require. *Mira v. Marshall*, 806 F.2d 636, 638 (6th Cir. 1986). Appointment of counsel is therefore required only if, given the difficulty of the case and petitioner’s ability, the petitioner could not obtain justice without an attorney, he could not obtain a lawyer on his own, and he would have a reasonable chance of winning with the assistance of counsel. *See Thirkield v. Pitcher*, 199 F. Supp. 2d 637, 653 (E.D. Mich. 2002).

Defendant has not demonstrated that appointment of counsel is warranted. Seeking compassionate relief does not involve complex facts or legal doctrines that would prevent Defendant from effectively bringing his claim on his own behalf. Indeed, Defendant has already filed a relatively lengthy motion for compassionate release, which includes 56 pages of briefing and exhibits. *See* ECF No. 478. Defendant’s motion for the appointment of counsel will be denied.

B.

The Government’s motion to dismiss will also be denied. The Government argues that Defendant’s motion should be dismissed because his case is currently on appeal to the Sixth Circuit. ECF No. 479 at PageID.3608. On February 5, 2020, Defendant filed a notice of appeal regarding this Court’s January 31 order reducing his sentence. ECF No. 465. However, the appeal has since terminated. The Sixth Circuit affirmed this Court on July 28, 2020, ECF No. 474, and

the mandate issued on August 20, 2020. ECF No. 475. Accordingly, the Government's motion will be denied.

C.

Under the Eastern District of Michigan Local Rules, a response to a nondispositive motion must be filed within 14 days of service of the motion. L.R. 7.1(e)(2). As of the date below, no response to Defendant's motion for compassionate release has been received. Accordingly, the Government will be directed to respond to Defendant's motion for compassionate release.

II.

Accordingly, it is **ORDERED** that Defendant's Motion for Appointment of Counsel, ECF No. 477, is **DENIED**.

It is further **ORDERED** that Plaintiff's Motion to Dismiss, ECF No. 497, is **DENIED**.

It is further **ORDERED** that Plaintiff is **DIRECTED** to respond to Defendant's Motion for Compassionate Release, ECF No. 478, **on or before October 27, 2020**. Consistent with Local Rule 7.1(e)(2)(C), Defendant shall have seven days to reply after service of Plaintiff's response.

Dated: October 20, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Stanley Thomas Brazil, Jr #41864-039**, MILAN FEDERAL CORRECTIONAL INSTITUTION, Inmate Mail/Parcels, P.O. BOX 1000, MILAN, MI 48160 by first class U.S. mail on October 20, 2020.

s/Kelly Winslow
KELLY WINSLOW